

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ROILAND FERNANDEZ-MEDINA,

Plaintiff,

v.

OLIVAREZ,

Defendants.

CASE NO. 3:20-cv-05703-RAJ-JRC

ORDER

Before the Court is plaintiff's motion for appointment of counsel. Dkt. 9. Defendants did not file a response.

There is no constitutional right to appointed counsel in a § 1983 civil action, and whether to appoint counsel is within this Court's discretion. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981); *see United States v. \$292,888.04 in U.S. Currency*, 54 F.3d 564, 569 (9th Cir. 1995). Appointment of counsel for indigent civil litigants under 28 U.S.C. § 1915(e)(1) requires "exceptional circumstances." *See Rand v. Roland*, 113 F.3d 1520, 1525 (9th Cir. 1997) (citing former 28 U.S.C. § 1915(d) (1996)), *overruled on other grounds*, 154 F.3d 952 (1998). To

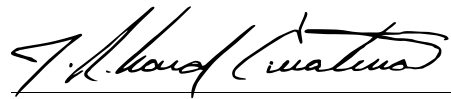
1 decide whether exceptional circumstances exist, the Court must evaluate “both ‘the likelihood of  
2 success on the merits [and] the ability of the [plaintiff] to articulate his claims *pro se* in light of  
3 the complexity of the legal issues involved.’” *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th  
4 Cir. 1986) (quoting *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)). “Neither of these  
5 factors is dispositive and both must be viewed together[.]” *Id.*

6 Plaintiff alleges that he has attempted to contact attorneys by phone, but he is not able to  
7 afford counsel. Dkt. 6. Plaintiff further contends his imprisonment will greatly limit his ability to  
8 litigate this matter, he has limited access to the law library, he has limited formal education, and  
9 counsel would enable plaintiff to present evidence and examine witnesses. Dkt. 6 at 3.

10 Here, plaintiff has not shown that he is likely to succeed on the merits of his case or  
11 shown an inability to articulate his claims in a fashion that is understandable to the Court. His  
12 pleadings before the Court demonstrate that he is able to understand the legal standards  
13 applicable to his § 1983 claims and communicate the factual basis for those claims. *See* Dkt. 4, 5,  
14 6, 7. In addition, this is not a complex case nor do plaintiff’s § 1983 claims entitle him to  
15 representation. *See Storseth*, 654 F.2d at 1353. “Most actions require development of further  
16 facts during litigation and a *pro se* litigant will seldom be in a position to investigate easily the  
17 facts necessary to support the case. If all that was required to establish successfully the  
18 complexity of the relevant issues was a demonstration of the need for development of further  
19 facts, practically all cases would involve complex legal issues.” *Wilborn*, 789 F.2d at 1331.

1        Thus, Court finds that plaintiff has not shown the exceptional circumstances required for  
2 the appointment of counsel. Plaintiff's motion to appoint counsel (Dkt. 9) is therefore denied  
3 without prejudice.

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5        Dated this 12th day of November, 2020.

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9        J. Richard Creatura  
10       United States Magistrate Judge  
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